

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

D.G., by Next Friend G., Gail Stricklin, et al.,

Plaintiffs,

vs.

C. BRAD HENRY, in his official capacity as Governor of the State of Oklahoma, et al.,

Defendants.

Case No. 08-CV-74-GKF-FHM

OPINION AND ORDER

OKDHS Defendants' Motion to Reconsider Opinion and Order [Dkt. 652] is before the Court for decision. Plaintiff's have filed a response [Dkt. 660] and Defendants have filed a reply [Dkt. 678]. Defendants seek reconsideration of the Court's order denying a protective order preventing the depositions of Defendants Mercer and Rawlings [Dkt. 614]. Defendants do not seek reconsideration of the order regarding Defendant Chase.

In support of this motion, Defendants present affidavits from Defendants Mercer's and Rawlings' doctors which detail changes in the Defendants' medical conditions.

Defendant Mercer suffered a stroke and was hospitalized from July 13, 2011 to August 1, 2011. Defendant Mercer has limited use of the right side of his body, has speech and cognitive limitations, and is homebound.

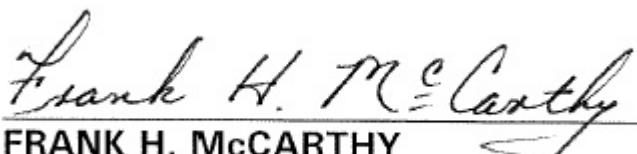
Defendant Rawlings has experienced chest pains for which he sought emergency treatment and displays a new symptom of stuttering to the point of almost being nonverbal. This symptom may be related to a stroke he suffered one year ago. Because of his health, Defendant Rawlings resigned as a Commissioner of DHS and from all of his consulting and other responsibilities.

Plaintiffs have not presented any information to dispute the medical information provided by Defendants. Plaintiffs assert that the motion should be denied because Defendants have refused Plaintiffs' request that the medical records of Mercer and Rawlings be produced. The Court notes, however, that Plaintiffs have not sought the Court's assistance in obtaining either the records or the depositions of the doctors. Under these circumstances, the motion must be decided on the basis of the information before the Court. Further, Plaintiffs have not asserted that Defendants Mercer and Rawlings have unique information that has not been otherwise established by the depositions of other Commissioners.

The Court finds that Defendants have presented new information that establishes a basis for reconsideration. The Court further finds that Defendants have established good cause for the requested protective order prohibiting Plaintiffs from taking the depositions of Defendants Mercer and Rawlings.

OKDHS Defendants' Motion to Reconsider Opinion and Order [Dkt. 652] is GRANTED. Defendants' Jay Dee Chase's, Ronald L. Mercer's and Robert Rawlings' Motion for Protective Order [Dkt. 525] is GRANTED as to Defendants Mercer and Rawlings.¹

SO ORDERED this 27th day of September, 2011.



FRANK H. McCARTHY

UNITED STATES MAGISTRATE JUDGE

¹

The Court has not considered the recommendations contained in Plaintiffs' response brief, [Dkt. 660, p. 3-4]. Pursuant to LCvR 72(e), a response to a motion may not also include a motion or a cross-motion made by the responding party.